IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

WP(C).No. 1722 of 2007(E)

PETITIONER:

PEPSICO INDIA HOLDINGS PRIVATE LTD.,
WISE PARK, INDUSTRIAL DEVELOPMENT AREA,
KANJIKODE (EAST) P.O., PALAKKAD-678 621,
REPRESENTED BY ITS MANAGER (PLANT ACCOUNTING),
MR.NEERAJ KHETAN.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.ANIL D. NAIR

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO THE GOVERMENT, TAXES, DEPARTMENT OF GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE INTELLIGENCE OFFICER, SQUAD NO.III, DEPARTMENT OF COMMERCIAL TAXES, PALAKKAD.

3. THE MANAGER, CITIBANK N.A., RAVIS ARCADE, 38/1581, M.G.ROAD, PADMA JUNCTION, ERNAKULAM, COCHIN- 682 035.

4. THE DEPUTY COMMISSIONER OF COMMERCIAL TAXES (APPEALS), ERNAKULAM.

R1, R2 & R4 BY GOVT. PLEADER SRI SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN,J.

W.P.(C).NO.1722 OF 2007

Dated this the 15th day of January, 2007

JUDGMENT

Petitioner is aggrieved by Ext.P7 letter issued from the Office of the Inspecting Asst. Commissioner (Int.), Commercial Taxes, Palakkad invoking bank guarantee issued by the 3rd respondent in favour of the petitioner in respect of the amount due as per the penalty order Ext.P4. The petitioner preferred Ext.P5 appeal and also a petition for advance hearing, Ext.P6. Ext.P6 itself contains an interim prayer for stay of encashment pending disposal of the appeal. However, while pending consideration of the matter before the appellate authority, the Authorities invoked bank guarantee as per Ext.P7. Hence this writ petition.

2. Heard the learned Government Pleader.

3. In the circumstances, there will be a direction to the 3rd respondent not to disburse the amount pursuant to Ext.P7 until disposal of the appeal, Ext.P5 by the 4th respondent. However, the same is subject to the condition that the petitioner shall extent the period of the bank guarantee or furnish separate bank guarantee valid upto 2008. The appellate Authority shall expedite the hearing of the appeal.

Writ Petition is disposed of as above.

P.R.RAMAN,
Judge.

kcv.